IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 3174 of 2007()

(AGAINST CRIME NO.60 OF 2007 OF KILIKOLLUR POLICE STATION)

PETITIONERS:

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1. **ALIYAR, AGED 31, S/O.HASSAN HAJI,**
   CHELAKKAL HOUSE, KODUMUNDA AMSOM,
   KODUMUNDA POST, PATTAMBI.

2. **THITHIKUTTY, W/O.HASSAN HAJI,**
   CHELAKKAL HOUSE, KODUMUNDA AMSOM,
   KODUMUNDA POST, PATTAMBI.

3. **SHEREEFA, D/O.HASSAN HAJI,**
   CHELAKKAL HOUSE, KODUMUNDA AMSOM,
   KODUMUNDA POST, PATTAMBI.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY ITS**
   PUBLIC PROSECUTOR, REPRESENTING SUB INSPECTOR
   OF POLICE, KILIKOLLUR POLICE STATION.

2. **FATHIMA.K., D/O.KABEER,**
   ABEES MANZIL, THATTARKONAM POST, KOLLAM.

BY ADV. SRI.K.P.SUDHEER
BY PUBLIC PROSECUTOR SRI. JIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C. No. 3174 Of 2007

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Dated this the 25th day of October, 2007

ORDER

The petitioners face indictment in a prosecution for the offence punishable, inter alia, under Section 498A I.P.C. They are the husband, mother-in-law and sister-in-law respectively of the second respondent herein. Cognizance has been taken. The case is pending before the Judicial First Class Magistrate Court, Kollam as C.C.No.1285/2007. The petitioners have now come before this court with a prayer to quash the FIR, in view of the subsequent settlement of the dispute with the 2nd respondent and in view of the composition by the 2nd respondent.

2. I am satisfied from the statements made at the Bar, the averments in the petition as also the documents produced in the Crl.M.C, that the disputes have been settled between the parties amicably and the 2nd respondent has compounded the offence allegedly committed by the petitioners against her. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be directed.

3. However, the offence under Section 498A I.P.C is not compoundable under Sec.320 Cr.P.C. The learned counsel, in these

circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that notwithstanding the provisions of Section 320 Cr.P.C, the powers under Section 482 Cr.P.C can be invoked to bring about premature termination of such prosecution, in an appropriate case.

4. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked. The spouses have now separated and are legally divorced.

5. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.1285/2007 against the petitioners pending before the Judicial First Class Magistrate Court, Kollam shall stand quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE